

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1008 be amended to read as follows:

- 1 Page 31, between lines 33 and 34, begin a new paragraph and insert:
- 2 **"Chapter 4.5. Notification to State Employees Before a Layoff,**
- 3 **Reduction in Hours, or Termination of Employment**
- 4 **Sec. 1. This chapter applies to employees of the state who may**
- 5 **be reasonably expected to experience:**
- 6 **(1) a termination from employment, other than a discharge**
- 7 **for cause, a voluntary departure, or retirement;**
- 8 **(2) a layoff from employment exceeding six (6) months; or**
- 9 **(3) a reduction in hours of work of more than fifty percent**
- 10 **(50%) during each month of a six (6) month period;**
- 11 **as the result of the authority's entry into a public-private**
- 12 **agreement under this article.**
- 13 **Sec. 2. (a) The state department, agency, or other entity that**
- 14 **expects to terminate, lay off, or reduce the work hours of**
- 15 **employees of the state as described in section 1 of this chapter shall**
- 16 **serve written notice of the termination, layoff, or reduction in**
- 17 **hours not later than sixty (60) days before the date of the**
- 18 **termination, layoff, or reduction in hours to:**
- 19 **(1) each affected employee; and**
- 20 **(2) the department of workforce development.**
- 21 **(b) The mailing of notice to an employee's last known address**
- 22 **or the inclusion of the notice with the employee's paycheck are**
- 23 **acceptable methods for fulfilling the state department, agency, or**
- 24 **other entity's obligation to give notice under subsection (a).**
- 25 **Sec. 3. (a) An employee of the state who, as the result of a state**
- 26 **department, agency, or other entity's failure to give the notice**
- 27 **required by section 2 of this chapter, did not receive the required**
- 28 **notice may commence an action for the employee or on behalf of**
- 29 **other employees similarly situated, or both, in the circuit or**
- 30 **superior court of the county in which the violation is alleged to**
- 31 **have occurred.**

1 (b) The court shall award the following to each employee who
2 suffered a termination, layoff, or reduction in hours as the result of
3 the state department, agency, or other entity's violation of this
4 chapter:

5 (1) Back pay for each day of violation at a rate of
6 compensation not greater than:

7 (A) the average regular rate receive by the employee
8 during the three (3) years before the date of the
9 termination, layoff, or reduction in hours; or

10 (B) the final regular rate received by the employee.

11 (2) Benefits under an employee benefit plan described in 29
12 U.S.C. 1002, including the cost of medical expenses incurred
13 after the termination, layoff, or reduction in hours that
14 would have been covered under an employee benefit plan if
15 the termination, layoff, or reduction in hours had not
16 occurred.

17 (3) Costs and reasonable attorney's fees.

18 (c) The state department, agency, or other entity's liability
19 under subsection (b) is calculated for the period of the violation, up
20 to a maximum of sixty (60) days, but not more than fifty percent
21 (50%) of the number of days that the employee was employed by
22 the state department, agency, or other entity.

23 (d) The amount for which the state department, agency, or
24 other entity is liable under this section to an employee is reduced
25 by the following:

26 (1) Wages paid by the state department, agency, or other
27 entity to the employee for the period of violation.

28 (2) A payment by the state department to a third party or
29 trustee (such as premiums for health benefits) on behalf of
30 and attributable to the employee for the period of the
31 violation.

32 (3) A monetary equivalent equal to the amount of service
33 credited to the employee for all purposes under a public
34 employees' retirement fund for the period of violation.

35 (e) The remedies provided for in this section are the exclusive
36 remedies for any violation of this chapter."

(Reference is to EHB 1008 as printed February 24, 2006.)

Senator CRAYCRAFT